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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,877	01/03/2000	LAWRENCE M. AUSUBEL	3788-7004	8423

7590 10/15/2003

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EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/476,877

Applicant(s)

AUSUBEL, LAWRENCE M.

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53,54,57,60,61,64-68,71-75 and 78-86 is/are rejected.
- 7) ☒ Claim(s) 55,56,58,59,62,63,69,70,76 and 77 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3628

DETAILED ACTION

1. Regarding the status of the claims in the instant application, the Examiner has made an updated search and found new prior art. The Examiner is obliged to apply the newly found prior art. Thus, the finality of the prior Office action has been withdrawn and a new rejection follows. The Examiner regrets the delayed process of the application. Accordingly, claims 53-86 remain pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 53-54, 57, 60, 61, 64-68, 71-75 and 78-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Business Editors (hereinafter, ONSALE) in view of Fujisaki (US Patent No. 4,789,928).

As per claim 53, ONSALE discusses a computer implemented auction system comprising an auctioneer system coupling to at least two remote user systems. The user system is a general purpose computer comprising means for receiving messages from the auctioneer's system and for displaying messages; means for receiving bid related information from users; means for transmitting bid information to the auctioneer's system. See the entire document.

Art Unit: 3628

The auctioneer's system including means for generating and transmitting messages to user system, means for receiving bid information from user systems. See the entire document.

Having a decision means is not explicitly stated in the ONSALE document. Fujisaki discloses an auction information transmission processing system. The system comprises a host terminal and a plurality of dealer terminals which submit bids to the host terminal. Note the abstract and figure 1 of Fujisaki. Fujisaki further discloses a decision means responsive to the bid information received from the user systems for determining whether an auction should continue or terminate, the decision means including means to initiate the generation of a non-final message to at least one user system in response to a determination to continue an auction. Note column 7, lines 24-27, 53-51; column 10, lines 32-59; column 13, lines 21-27 of Fujisaki. Fujisaki also discloses means to initiate the generation of a final message to at least one user system in response to a determination to terminate an auction. Applicant is directed to column 5, lines 55-58; column 10, line 62 to column 11, line 9 and column 13, lines 27-31 of Fujisaki. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate these features as taught by Fujisaki into the system of ONSALE in order to provide instant messages such as bid status and auction status to all bidders thereby providing a user friendly system.

The only difference between the combination of the ONSALE system with Fujisaki is that the auction system herein as claimed is directed to television licenses and/or associated derivative rights. The Examiner asserts that these kinds of data do not affect the functionality of the system of ONSALE as these are merely different types of

Art Unit: 3628

data that cannot be accorded patentable differences. These are different intended types of “items”, “things” or “objects” that would have been obvious to the skilled artisan when gleaning from the ONSALE system. Applicant is directed also to column 14, lines 43-46 of Fujisaki where it is indicated that the system “can be applied to the auctioning of various articles”.

Claim 54 is directed to the different parameters associated in most types of auctions. They include a value such as a quantity or monetary value and a type of data or the description of the item being auctioned (such as license subset identification). Such a similar bid information is illustrated in figures 23A to 23E of Fujisaki. Furthermore, the Examiner notes that these types of data do not affect the functioning of the combined system of ONSALE and Fujisaki since in memory or computer manipulation, data is only data. The kind of data does not affect the functioning of the auction system.

As per claim 57, auctions are well known to be conducted in multiple rounds. Doing the same in the ONSALE system would have been obvious to the skilled artisan in order to simulate a live auction system.

Claims 60-61 contain limitations addressed in respective claims 53-54, and therefore are rejected under a similar rationale.

As per claims 64-65, note the rejection of claim 57 above.

As per claim 66, these limitations would have been obvious to the skilled artisan when viewing the system of ONSALE in order to determine the total of items being bid on or the highest bid during a given time period.

As per claims 67 and 68, applicant is directed to the rejection of claims 53 and 54 respectively. Furthermore, determining the television rights or associated derivative

Art Unit: 3628

rights to be assigned to the bidders would have been obvious to one of ordinary skill in the art as the items being bid on would have been assigned to the winning bidders.

As per claims 71-72, note the rejection of claim 57 above.

As per claim 73, these limitations would have been obvious to the skilled artisan when viewing the system of ONSALE in order to determine the total of items being bid on.

As per claims 74-75, note the respective rejection of claims 53 and 54 above. Furthermore, determining the television rights or associated derivative rights to be assigned to the bidders would have been obvious to one of ordinary skill in the art as the items being bid on would have been assigned to the winning bidders.

As per claims 78-79, note the rejection of claim 57 above.

As per claim 80, these limitations would have been obvious to the skilled artisan when viewing the system of ONSALE in order to determine the total of items being bid on or the highest bid during a given time period.

As per claims 81-83, applicant is directed to the rejection of respective claims 53, 57 and 54.

As per claims 84-86, applicant is directed to the rejection of respective claims 53, 57 and 54.

Allowable Subject Matter

3. Claims 55-56, 58-59, 63-63, 69-70 and 76-77 are objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP
October 7, 2003


JOHN J. LOVE
DIRECTOR
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